

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

RONALD TUSSEY, <i>et al.</i> ,)	
)	
Plaintiffs;)	
)	
v.)	Case No. 06-04305-CV-C-NKL
)	
ABB, INC., <i>et al.</i> ,)	
)	
Defendants.)	

NOTICE OF SUBSEQUENT PROCEDURAL HISTORY

The Honorable Judge Stephen V. Wilson, in the Central District of California, recently issued his Order from the trial in *Tibble v. Edison International*, which was held on October 20-22, 2009 after the court granted in part and denied in part defendants' motion for summary judgment.¹ 2010 WL 2757153 (C.D. Cal. July 8, 2010). Judge Wilson concluded that retail mutual funds are imprudent for a large 401(k) plan when an institutional share class is also available. 2010 WL 2757153 at *25-30. The court ordered that the imprudent funds be removed from the plan and that defendants reimburse the plan for the losses incurred from defendants' breaches. *See* 2010 WL 2757153 at *37-38.

Respectfully Submitted,

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By: /s/ Jerome J. Schlichter

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¹ On July 28, 2009 and August 12, 2009 (Ct. Docs. 402 and 404), this Court allowed Defendants' requests for leave to file as supplemental authority the summary judgment decisions in *Tibble v. Edison*.

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CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2010 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Adam B. Walker, Azeez Hayne, Brian Boyle, Brian T. Ortelere, Catherine A. Cugell, Charles Lee Jolley, Gregory C. Braden, Henry D. Fellows, Jr., James O. Fleckner, James S. Dittmar, Jeffrey A. Strgeon, Jeffrey S. Russell, Michael J. Nester, Richard N. Bien, Robert N. Eccles, Shannon Barrett, Stephen D. Brody, Thomas E. Wack, William J. Delany.

/s/ Jerome J. Schlichter